

**Senate File 2243 - Introduced**

SENATE FILE 2243  
BY COMMITTEE ON LABOR AND  
BUSINESS RELATIONS

(SUCCESSOR TO SF 2097)

**A BILL FOR**

1 An Act providing for employment leave for prenatal appointments  
2 and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 4, Code 2016, is  
2 amended to read as follows:

3 4. The division of labor services is responsible for the  
4 administration of the laws of this state under [chapters 88,](#)  
5 [88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,](#)  
6 [and 94A,](#) and [section 85.68.](#) The executive head of the division  
7 is the labor commissioner, appointed pursuant to [section 91.2.](#)

8 Sec. 2. Section 91.4, subsection 2, Code 2016, is amended  
9 to read as follows:

10 2. The director of the department of workforce development,  
11 in consultation with the labor commissioner, shall, at the  
12 time provided by law, make an annual report to the governor  
13 setting forth in appropriate form the business and expense of  
14 the division of labor services for the preceding year, the  
15 number of remedial actions taken under [chapter 89A,](#) the number  
16 of disputes or violations processed by the division and the  
17 disposition of the disputes or violations, and other matters  
18 pertaining to the division which are of public interest,  
19 together with recommendations for change or amendment of the  
20 laws in [this chapter](#) and [chapters 88, 88A, 88B, 89, 89A, 89B,](#)  
21 [90A, 91A, 91C, 91D, 91E, 91F, 92,](#) and [94A,](#) and [section 85.68,](#)  
22 and the recommendations, if any, shall be transmitted by the  
23 governor to the first general assembly in session after the  
24 report is filed.

25 Sec. 3. NEW SECTION. 91F.1 Public policy.

26 It is the public policy of this state to promote healthy  
27 pregnancies by ensuring that pregnant workers are able to  
28 obtain necessary prenatal care without loss of income.

29 Sec. 4. NEW SECTION. 91F.2 Definitions.

30 1. "Employee" means a natural person who is employed in  
31 this state for wages by an employer for at least twelve hours  
32 a week.

33 2. "Employer" means a person, as defined in section 4.1, who  
34 employs for wages fifty or more natural persons in this state.

35 3. "Prenatal appointment" means an appointment with a

1 licensed health care professional to receive medical advice,  
2 diagnosis, care, or treatment relating to an employee's  
3 pregnancy before the employee gives birth.

4 4. "*Primary care provider*" means the same as defined in  
5 section 252E.1.

6 Sec. 5. NEW SECTION. 91F.3 Leave for prenatal appointments.

7 1. An employee shall be entitled to take leave to attend  
8 prenatal appointments as recommended by an employee's primary  
9 care provider in order to promote a healthy pregnancy.

10 2. An employer shall compensate an employee for leave taken  
11 pursuant to this section at the same rate and with the same  
12 benefits as the employee normally earns working regular hours.

13 3. An employee shall become eligible for leave pursuant to  
14 this section on the first day the employee begins employment.

15 4. Each time an employee takes leave pursuant to  
16 this section, the employee shall provide to the employer  
17 documentation from a licensed health care professional that  
18 leave taken pursuant to this section was taken for the purpose  
19 of attending a prenatal appointment.

20 5. Leave to which an employee is entitled pursuant to this  
21 section shall be in addition to any other paid sick leave  
22 offered by an employer, whether or not such paid sick leave is  
23 required by law. An employer shall not require an employee to  
24 take any other leave to which the employee is entitled before  
25 the employee takes leave pursuant to this section or as a  
26 substitute for leave taken pursuant to this section.

27 Sec. 6. NEW SECTION. 91F.4 Prohibition against discharge  
28 and discrimination.

29 An employer shall not discharge or in any other manner  
30 discriminate against an employee because the employee has  
31 filed a complaint alleging a violation of this chapter or  
32 has cooperated in filing or responding to such a complaint.  
33 An employee may also file a complaint with the commissioner  
34 alleging discharge or discrimination within thirty days after  
35 such violation occurs. Upon receipt of the complaint, the

1 commissioner shall cause an investigation to be made to the  
2 extent deemed appropriate. If the commissioner determines from  
3 the investigation that the provisions of this section have  
4 been violated, the commissioner shall bring an action in the  
5 appropriate district court against such person. The district  
6 court shall have jurisdiction, for cause shown, to restrain  
7 violations of this section and order all appropriate relief  
8 including rehiring or reinstatement of the employee to the  
9 former position with back pay.

10 Sec. 7. NEW SECTION. 91F.5 General powers and duties of the  
11 commissioner.

12 1. The commissioner shall administer and enforce the  
13 provisions of this chapter. The commissioner may hold hearings  
14 and investigate charges of violations of this chapter.

15 2. The commissioner shall establish a process for receiving  
16 and responding to complaints of violations of this chapter,  
17 including determination of the validity of complaints.

18 3. The commissioner may, consistent with due process of  
19 law, enter any place of employment to question the employer and  
20 employees and to investigate such facts, conditions, or matters  
21 as are deemed appropriate in determining whether any person has  
22 violated the provisions of this chapter. However, such entry  
23 by the commissioner shall only be in response to a written  
24 complaint.

25 4. The commissioner may employ such qualified personnel  
26 as are necessary for the enforcement of this chapter. Such  
27 personnel shall be employed pursuant to chapter 8A, subchapter  
28 IV.

29 5. The commissioner shall adopt rules pursuant to chapter  
30 17A to administer this chapter.

31 Sec. 8. NEW SECTION. 91F.6 Civil penalties.

32 1. An employer who violates the provisions of this chapter  
33 shall be subject to a civil penalty of not more than five  
34 hundred dollars for each violation. The commissioner may  
35 recover such civil penalty according to the provisions of

1 subsections 2 to 5. Any civil penalty recovered shall be  
2 deposited in the general fund of the state.

3 2. The commissioner may propose that an employer be assessed  
4 a civil penalty by serving the employer with notice of such  
5 proposal in the same manner as an original notice is served  
6 under the rules of civil procedure. Upon service of such  
7 notice, the proposed assessment shall be treated as a contested  
8 case under chapter 17A, if the employer requests a hearing  
9 within thirty days of being served.

10 3. If an employer does not request a hearing pursuant  
11 to subsection 2 or if the commissioner determines, after an  
12 appropriate hearing, that an employer is in violation of this  
13 chapter, the commissioner shall assess a civil penalty which  
14 is consistent with the provisions of subsection 1 and which is  
15 made with due consideration for the penalty amount in terms  
16 of the size of the employer's business, the gravity of the  
17 violation, the good faith of the employer, and the history of  
18 previous violations.

19 4. An employer may seek judicial review of an assessment  
20 made under subsection 3 by instituting proceedings for judicial  
21 review pursuant to chapter 17A. However, such proceedings must  
22 be instituted in the district court of the county in which the  
23 violation or one of the violations occurred and within thirty  
24 days of the day on which the employer was notified that an  
25 assessment was made. Also, an employer may be required, at  
26 the discretion of the district court and upon instituting such  
27 proceedings, to deposit the amount assessed with the clerk of  
28 the district court. Any moneys so deposited shall either be  
29 returned to the employer or be forwarded to the commissioner  
30 for deposit in the general fund of the state, depending on the  
31 outcome of the judicial review, including any appeal to the  
32 supreme court.

33 5. After the time for seeking judicial review has expired  
34 or after all judicial review has been exhausted and the  
35 commissioner's assessment has been upheld, the commissioner

1 shall request the attorney general to recover the assessed  
2 penalties in a civil action.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with  
5 the explanation's substance by the members of the general assembly.

6 This bill provides that an employee is entitled to take leave  
7 to attend prenatal appointments as recommended by an employee's  
8 primary care provider to promote a healthy pregnancy. The bill  
9 requires an employer to compensate an employee for such leave  
10 at the same rate and with the same benefits as the employee  
11 normally earns working regular hours. An employee becomes  
12 eligible for such leave on the first day the employee begins  
13 employment.

14 The bill requires an employee to provide documentation  
15 to an employer from a licensed health care professional that  
16 such leave was taken for the purpose of attending a prenatal  
17 appointment.

18 The bill defines "prenatal appointment" as an appointment  
19 with a licensed health care professional to receive medical  
20 advice, diagnosis, care, or treatment relating to an employee's  
21 pregnancy before the employee gives birth. The bill defines  
22 "employer" as a person who employs for wages 50 or more natural  
23 persons in this state. The bill defines "employee" as a  
24 natural person who is employed in this state for wages by  
25 an employer for at least 12 hours a week. The bill defines  
26 "primary care provider" as a physician who provides primary  
27 care who is a family or general practitioner, a pediatrician,  
28 an internist, an obstetrician, or a gynecologist.

29 The bill provides that leave to which an employee is entitled  
30 pursuant to the bill shall be in addition to any other paid  
31 sick leave offered by an employer, whether or not such paid  
32 sick leave is required by law. The bill prohibits an employer  
33 from requiring an employee to take any other leave to which the  
34 employee is entitled before the employee takes leave pursuant  
35 to the bill or as a substitute for leave taken pursuant to the

1 bill.

2     The bill prohibits an employer from discharging or in any  
3 other manner discriminating against any employee because the  
4 employee has filed a complaint alleging a violation of the bill  
5 or has cooperated in filing or responding to such a complaint.  
6 The bill permits an employee to file a complaint with the  
7 labor commissioner alleging discharge or discrimination within  
8 30 days after such violation occurs. The bill provides the  
9 commissioner with investigative and remedial powers to respond  
10 to such complaints.

11     The bill provides powers and duties for the commissioner  
12 relating to the administration and enforcement of the bill,  
13 including holding hearings, establishing a complaint process,  
14 conducting investigations, employing qualified personnel, and  
15 adopting rules.

16     An employer who violates the bill is subject to a civil  
17 penalty of not more than \$500 for each violation. The bill  
18 provides administrative and judicial processes for imposing and  
19 recovering such penalties.